

Benton County Planning Board

Public Hearing Minutes

January 20, 2010, 6:00 p.m.

1. Call to Order

2. Roll Call

The Board was represented by Scott Borman, Jim Cole, Lane Gurel, Bill Kneebone, Ken Knight and Heath Ward.

Staff was represented by Ronette Bachert, Teresa Sidwell, and Karen Stewart.

3. Disposition of the Minutes of the December 16, 2009 public hearing meeting minutes as distributed. Mr. Gurel made a motion to approve the minutes; the motion was seconded by Mr. Ward. All members voted in favor of the motion.

4. Public Comment:

Public Comment regarding Dollar General

Mr. Kyle Unser of Keith, Miller, Butler, Schneider and Pawlik Attorneys represented a group of residents on Stoner Lane; he began by stating that the residents who had hired him were honestly scared. He stated that the purpose of the Planning Board as stated in the regulations is to foster harmony between existing neighborhoods and developments. Mr. Unser said that Stoner Lane has only one way in and one way out from Highway 12 - it is a residential cul-de-sac, not an avenue or through-street. He reiterated that the harmony will be disrupted if the project is allowed to go forward as platted. He added that there were two issues that he wanted to address; the first issue being that all residents on Stoner Lane completely oppose the project in any form.

Mr. Unser stated that his primary point was that the development as platted was just a plain horrible idea. He pointed out that the access for this Dollar General comes off of Stoner Lane, a residential cul-de-sac, as opposed to Highway 12; he assumed that the only reason for this was that it cost too much to put the access on Highway 12. Mr. Unser asserted that the cost is not a valid concern.

Mr. Unser commented that the developer estimated that one 18-wheeler per week would make deliveries to the proposed Dollar General. He stated that if the turn into the Dollar General was missed, the truck would have to turn around at the bottom of a two lane cul-de-sac, into someone's driveway or back all the way up the hill. Mr. Unser stated that the cost of repairs on the road would be exponentially higher than they are and that cost would be borne by the County. He speculated that a frontage road at some time would run parallel to Highway 12 so that a strip mall could be added with access from Stoner Lane. He emphasized that no one wants a development like this in their front yard; the project abuts two duplexes that are the only two non-single family homes in this older development of homes. Mr. Unser stated that the only traffic on Stoner Lane is the residents of the cul-de-sac; he surmised that the Dollar General would create an influx of three times the normal traffic flow. He expressed concern that the children who play in the neighborhood would be exposed to the dangers of increased traffic and the existing bus stop will have all new problems.

Mr. Unser stated that even with access located on Highway 12, the development would be the only commercial development in the surrounding area; he said that there is a boat storage unit about two hundred yards away on Bull Hill where all the traffic slows down but there are no other commercial developments until you go further east where there are many commercial developments. He pointed out that the Board has an announced purpose of cluster development; he said that that is a responsible development technique. Mr. Unser said that he did not feel that approval as platted would foster harmony between the existing neighborhood and the development and that it would not be using sound land management techniques, especially when there is commercial development to the east. For those reasons he asked the Board to place a high burden on the developer to show the Board that the development uses sound land development principals and mitigates nuisances to the existing development.

Tony Noblin of Watkins, Blair, Gray, Edwards and Noblin represented the Prairie Creek Property Owners Association consisting of approximately 900 properties. Mr. Noblin stated that the POA has no position as to whether or not the Dollar General should be built. He said that if it is built, the POA would like some concerns addressed, primarily the ingress and egress on Stoner Lane. He stated that this plan could possibly cause a traffic bottle-neck and he pointed out that Stoner Lane is a residential street that was not designed for commercial purposes. He mentioned that the street is in a location where two lanes merge. Mr. Noblin stated that when he was 17 he would "hammer it" to get up Bull Hill and pass as many people as he could (right or wrong) and try to get ahead of the pack. He assured the Board that he doesn't do that any more, but he still sees it going up that road and because of that it is important to consider the repercussions of folks driving at that speed in that area. Mr. Noblin stated that another issue is the turning radius would be very difficult for a truck to make that turn; more importantly it could bottle-neck the traffic behind it, which might be a good reason to

move the access on Highway 12. He expressed concern regarding the school bus stop there. Mr. Noblin said that approval of this access could set a precedent for developers asking for an egress/ingress for a commercial property from a residential lane. He stated that they respectfully ask the Board to consider these issues. Mr. Noblin stated that his final concern is if Dollar General is allowed to be built that proper buffering and screening be put in place for the residents behind the project; some mitigation such as shielded lighting was also suggested. Mr. Noblin stated that he or Susan Curtis of the Prairie Creek POA would be happy to answer any further questions.

Mr. Borman asked if it would satisfy some of his clients' concerns if the developer were required to put the entrance on Highway 12 as opposed to Stoner Lane and take reasonable action with regards to lighting and buffering. Mr. Unser stated that it would satisfy some, but not all, of their concerns; Mr. Noblin stated that it would satisfy most of the POA's concerns.

Mr. Cole asked where the bus stop was located. Mr. Noblin stated that it was his understanding that it was located at the corner of Stoner Lane and Highway 12. There was some further conversation that was indistinguishable from the recording.

Mr. Knight stated that Mr. Unser used the term clustering development and asked where he got that term; Mr. Unser stated that it came from the Board's regulations. Mr. Knight said that he understood the process but didn't know how it came up with this issue; Mr. Unser said that it came up with this issue because there is no other commercial development in this area and this is a residential cul-de-sac with two residential streets on either side and other residential streets on the other side of the highway. Mr. Unser added that there is a cluster of commercial development to the east and a large area of residential development and this project represents a pin-point of commercial development in an otherwise residential area.

Public comment regarding the proposed Dollar General store was opened.

Rita Ebert of 8569 Stoner Lane spoke regarding the Dollar General project. Mrs. Ebert stated that she has lived on Stoner Lane for about 3 years. She said that her community is on a cul-de-sac where everyone knows each other and that her community is special. She said that she had no idea that anything like the Dollar General would ever be built in their community. She speculated that this project would destroy their lifestyle. Mrs. Ebert stated that strangers may park while kids are getting off the bus and trucks would make it more dangerous. She asked the Board to think about the affect on their lives.

Marie Martin of 8661 Stoner Lane spoke regarding the property values of the homes surrounding the Dollar General project. She stated that a local real estate agency estimated that at a minimum property values will decrease by

10 percent. Ms. Martin added that County law enforcement would have to deal with undesirable people using the Dollar General parking lot after hours. She added that many homes in the area are where residents had planned to retire. Ms. Martin stated that residents chose to live there for the seclusion, peace and quiet.

Don Kendall, a lawyer from Rogers representing Darrow Garner, Inc., operating under the Nelson Family Revocable Trust, who are the sellers of this property and developers in the Prairie Creek area, stated that the quality of the area can be directly attributed to Darrow Garner Incorporated. Mr. Kendall added that Benton County has chosen to not partake of zoning and that the courts do not favor restrictions of property rights without the implementation of zoning ordinances. He passed out photos that he said would show the area to be a highway commercial site buffered by multi family dwellings. Mr. Kendall indicated that there is another commercial property (a boat repair shop), a vacant lot and then this site all on a state highway with more commercial property down the road. He added that the State Highway Department has expressed that access to the property not be from the highway because of the topography. He pointed out that there is also a huge cell tower across the highway from the property.

Mr. Knight asked if the owner of the property was prepared to take the case to court if they are not in agreement with the Board's decision; Mr. Kendall stated that he did not allude to that. Mr. Cole asked about other commercial developments that had access off of Stoner; Mr. Kendall said that he had stated that other commercial properties had access off Highway 12. Mr. Kendall said that he was told by Mr. Glass that he had spoken to the district superintendant engineer and because of the topography of the site the grade is such that it would interfere with visibility.

Dawn Ashby of 8624 Stoner Lane stated that she and her husband had moved to their home in 2004. She indicated that the subdivision covenants dated August 27, 1992 state that no lights shall be used except for residential purposes. Ms. Ashby stated that they had been misled and the very next year an addendum was made to the covenants so that Boat Works could go in. She added that no one on the street was notified of the addendum. Mr. Ward stated that it generally was not the job of the Board to get into matters concerning covenants; he questioned how it was possible that the covenants could be changed without the acknowledgement of the property owners; Ms. Ashby said that that was a good question. Mr. Kendall stated that the property in question is not a part of the subdivision.

Mr. Gurel asked if it was the opinion of Ms. Ashby that the platted subdivision in which she lives includes the property where Dollar General is proposed; Ms. Ashby agreed that it was her understanding. Mr. Gurel asked if she had also thought that Boat Works was also a part of the platted subdivision; Ms. Ashby stated that she had believed that all the property at the end of the street was protected by the covenants. Mr. Unser stated that according to

his title company, the property was not a part of the subdivision. He added that he was not sure how the Boat Works property was removed from the subdivision. Mr. Gurel stated that there are commercial properties along Highway 12 and he believes that residents in that area should expect that commercial developments will occur in the area. He stated that although the Board does not enforce covenants, he would be interested to know if there were covenants that run with that land that prohibit certain types of use.

Kathy McCann of 8535 Stoner Lane stated that Dollar General would have to do the same amount of work to have an entrance from Highway 12 as Wolfe Boat Works did. She stated that the topography is the same.

An unidentified speaker asked the Board if the photos passed out to the Board showed a cell tower. Mr. Borman answered yes and stated that many of the Board members have visited the property and were familiar with the surrounding area.

Mr. Borman closed public hearing for the Dollar General project and public comment for the Osage Creek Arts Center was opened. There was no comment from the public concerning Osage Creek Arts Center and public comment was closed.

5. Old Business:

- A. Large Scale Development – **Dollar General** – 14161 East Highway 12, Rogers

Rodney Ghan of Westbrook Development LLC represented the project. Mrs. Stewart read the stipulations from the TAC meeting for the project:

1. The applicant must obtain a letter from the 911 Administration verifying the 911 address of the project to the Planning Board.
2. Adjoining property owners must be notified 14 days prior to public hearing. Due to the inadequate time frame the applicant must come before the Board at the Public Hearing on January 20.
3. Septic and lateral lines must be identified on the plat.
4. The Health Department recommends roping off the septic lateral line area during construction of the project.
5. A turn lane may be required on Highway 12 to avoid traffic congestion.
6. One-lane road turning out of Stoner Lane may cause traffic concerns.
7. A letter of approval from the State Highway Department regarding traffic flow, curb cut and signage setback will be required by the Planning Board.

8. A drainage report will be required for this project.
9. Green or live screening is recommended by the Planning Board for noise and aesthetics.
10. Light shielding on the back of the building may be required by the Board.

Mrs. Stewart noted that stipulations #5, 9, and 10 had not been satisfied; all other stipulations had been met.

Mr. Ward asked the representative what their hours of operation would be; Mr. Ghan stated that their business hours would be 8 a.m. until 9 p.m. Mr. Ward asked if it would be acceptable to the applicant to have a gate to keep people out of the parking lot after the hours of operation; Mr. Ghan asked how many retail developments were required to have a gate. Mr. Ward stated that there are several in the county. Mr. Ghan stated that it would be a question for the Dollar General people and it would not be his decision. Mr. Ward stated that he did not see it as a great expense even if it was a cable with a lock on it to keep people from hanging out at the parking lot. Mr. Ghan asked why they were being asked to put up a gate when everyone up and down the street was not asked to do it. Mr. Ward stated that his concern was that the project was in close proximity to a bus stop and a neighborhood with children. Mr. Ghan said that he would take his recommendations to his client. He added that he had never been asked to gate an access to a residential street and wanted to know if he would be asked to gate the parking lot if the access was on Highway 12. Mr. Ward stated that he would also ask for a gate if access was on Highway 12.

Mr. Ghan asked if the Board would consider gating the residential road to the neighborhood. Mr. Ward stated that you cannot gate a county road. Mr. Borman stated that he believed that the issue was brought up at the TAC meeting and it was a matter of dollars. Mr. Ghan denied Mr. Borman's statement and stated that it was an elevation issue. Mr. Borman stated that his concern was safety regarding the entrance on Stoner Lane and that he would be more comfortable with an entrance on Highway 12 with no access from Stoner. He added that the project can't be denied because it is a commercial project because there is no evidence that it is a part of the subdivision but there are overriding safety concerns regarding the entrance from Stoner Lane and safety of the residents. Mr. Kneebone agreed that the entrance from Stoner Lane should be completely eliminated. Mr. Gurel added that while the topography is higher he sees no problem with the access being on the highway and that he would not support the project with the access from Stoner Lane. He indicated that the parking lot meets the property line in the shape of an apron, which indicates to him that someone has in mind to continue this parking lot further east along Highway 12 for future planned development.

Mr. Borman stated that he believed that the light shielding and landscaping are feasible and he advised the project representative to consult with the property owners about desired landscaping. Mr. Borman suggested that the representative not force a vote at this time because if the project is denied it would be one year before the applicant could reapply. He suggested that the applicant table the project. Mr. Ghan said that he understands the concerns of the residents but the State Highway Department has made it clear that they do not want the entrance to come off of Highway 12. Mr. Borman stated that the applicant could take the project back to the State Highway Department with the Board's concerns, including the ability of the county road to handle 18-wheeler traffic. Mr. Ghan said that he had consulted with Mr. Ralph Fulton, District Engineer and he declined when asked to write a letter to reflect what the Board had requested at the technical review. Mr. Gurel stated that he had suggested at the technical review that the representative meet with the State Highway Department and propose to them that the double lanes be extended past the site. He added that he believed the signs say "left lane ends - merge right" which seems backwards. He suggested that the sign should say right lane ends merge left. Mr. Gurel said that drivers are passing where the road is two lanes wide but there is no demarcation on the road. He suggested that the narrowing with demarcation be accomplished before Stoner Lane and the 35 miles per hour could start at Stoner Lane. Mr. Ghan stated that he had asked both of the questions suggested by Mr. Borman and Mr. Gurel and the State Highway Department stated that there are guidelines regarding striping of the road that must be followed. He added that he suggested the speed reduction with the Highway Department representative and they did not address the issue.

Mr. Ward indicated that for him to entertain approving the project he would require a Highway 12 entrance, light mitigation, hours of operation not past 9 pm, a gate barrier at the entrance to be locked after hours, and some type of buffering that is agreeable between the developer and the representative of the property owners.

Mr. Knight stated that he agreed with everything that was said but his concern is with Mr. Ghan's communication with the Dollar General people. He added that when the discussion concerned buffering, he felt it was key for the residents that the project be buffered to the point that it is over buffered; Mr. Ghan maintained that it was a matter of economics. Mr. Knight suggested that Mr. Ghan's people have lunch with the property owners to discuss buffering of the project. Mr. Ghan stated that he did address the issues raised.

Mr. Cole stated that his main concern was with the Stoner Lane entrance and the developer going back to the Highway Department to discuss options for a highway entrance.

Mr. Kneebone stated that he could not vote for the project if the entrance came off of Stoner Lane. He added that there be only one entrance off of

Highway 12 and completely close off the entrance on Stoner Lane. Mr. Ghan stated that he would have no reason for an entrance off Stoner if the access was changed to Highway 12. Mr. Ghan asked if the Board would accept the project if the access was from Highway 12. Mr. Borman stated that Mr. Ghan would need to hand out the landscape modifications for the Board to review. Mr. Ghan stated that he had already handed out the revised landscaping plan. Mr. Gurel stated that he believed the Board would need to see it replatted. Mr. Knight stated that he believed that the applicant needed to meet with the subdivision property owners regarding landscaping. Mr. Borman pointed out that there are standards in the regulations in place regarding buffering and landscaping; Mr. Knight agreed but added that he would like to get the subdivision property owners involved. Mr. Borman stated that ultimately it was the decision of the Board.

Mrs. Stewart asked the applicant if the project was something different from an all metal building. Mr. Ghan stated that it would be a prototype upgrade with brick on three sides and more landscaping than the typical Dollar General. He added that the owner had requested the upgrades to be friendly to the neighbors.

Mr. Ward noted that stipulations were as follows:

- Project entrance be moved to Highway 12
- Light mitigation to neighboring properties
- Hours not later than 9:00 pm
- A gate barrier at entrance to be locked after operating hours
- Adequate buffering and vegetation

Mr. Borman stated that the buffering looked adequate from his standpoint. He added that once the entrance from Stoner was removed additional landscaping along that side would be required. Mr. Borman stated that the representative needs to get with the Highway Department; he strongly suggested that the developer meet with the homeowners association and give them a copy of the landscaping plans so they know what is being done. He added that it was not a requirement of the applicant - only a suggestion for good will so that the homeowners have a voice in the process. Mr. Borman said that the homeowners have some valid concerns and they could voice their concerns to the representative. Mr. Gurel stated that he would add that the replatting give some specific information on the lighting. Mr. Borman said that light shielding would be required for security purposes on the back and side. Mr. Gurel stated that as long as the light would be cast down instead of toward the residences.

Mr. Gurel made a motion to table the project, Mr. Knight seconded the motion. All members of the Board voted in favor of the motion and the motion was passed.

Mr. Gurel asked the Board if the project would need to come back for technical review because of the replatting and would the neighbors need to be re-notified of the public hearing. Mr. Borman stated that the public has the right to speak but they would not be re-notified. Mrs. Stewart stated that if the public would like notification they could call the Planning Office and ask to be added to the email distribution list for Board agendas.

B. Large Scale Development - **Osage Creek Arts Center** – 14989 Logan Cave Road, Siloam Springs

The project was represented by Mr. Tim Sorey of Sand Creek Engineering

Mr. Sorey stated that he would discuss the permanent facility that has been approved and the extension given for that facility for those Board members that are new. He added that the approved project is immediately across the road to the north of the proposed project. Mr. Sorey stated that the parcel that is being discussed tonight is pasture land and it was part of the original amphitheater project as overflow parking and camping areas. He added that the developer wishes to utilize this portion of his property for temporary events, concerts, arts and crafts fairs and different events that can be booked on the property.

Mr. Sorey stated that what is shown on the drawings is one of the more intrusive events that could be scheduled: a double concert with dual stages. He added that all of the facilities will be temporary in nature; it will consist of portable stages - nothing will be fixed to the ground, nothing will be permanent, everything will be set up, utilized and then everything would be packed away just like the arts and crafts fair tents.

Mr. Sorey stated that soil preparation might be required in areas that will need to be driven on if the soils are not adequate to support the loads but that would be the only permanent aspect of this project; he emphasized that it would not be grading and changing dirt work. He indicated that grass pave would be put down; he hoped that no gravel surfaces would be necessary. Mr. Sorey stated that the intent was to keep it open pasture land and be able to continue to hay it. He said that it was a brief summary and that he would be happy to answer any questions. Mr. Sorey reiterated that if the Board wanted to go into the history of the permanent facility he would be happy to go into that but that the developer was proposing only a temporary use on a piece of property.

Mr. Knight asked if Mr. Sorey could point out where Logan Cave is located; Mr. Sorey stated that he might require some assistance in doing so. He indicated that he believed it was south and west of the property. Mr. Sorey asked an unidentified man to come up to the podium; the gentleman stated that the cave was where Logan Road and Logan Cave Road intersect. Mr. Sorey pointed out the location on one of the handouts, stating that there are some hard lines where Logan Cave Road, which is adjacent to the property, it

goes to west then the darker line takes a hard 90 to south past Logan. He said that you would continue on to the West past that 90 turn to get to the cave. Mr. Knight stated that the only reason he raised that was because it is a heavily karst area. Mr. Knight stated that Logan Cave was closed to the public. Mr. Knight added that he was concerned with the ground water and other surface usage getting into that karst region. Mr. Sorey reassured the Board that the developer had met with David Kampwerth of the U.S. Fish and Wildlife Service at length; he stated that the property owner had donated many acres to the federal government to protect that corridor. Mr. Borman reminded Mr. Knight that the Board had received an email from David Kampwerth detailing his stipulations; Mr. Borman read the U.S. Fish & Wildlife requirements for the record:

- Mr. Smith has committed to provide additional security to ensure that during events no trespass or vandalism will occur with regards to Logan Cave National Wildlife Refuge

Mr. Borman asked if there was a drainage report for this project for the purpose of storm water post construction management. Mr. Sorey stated that there is no drainage report for the temporary facility; he added that there would be a drainage report for the permanent facility. Mr. Gurel mentioned that he had noticed that the temporary facility was in a floodplain. Mr. Sorey stated that he had been working with Benton County Floodplain Administrator Ronette Bachert, since she would be handling the permitting of the temporary developments within the floodplain. He indicated that

- Benton County Floodplain Administrator Ronette Bachert would be notified of any planned events along with all appropriate health and safety personnel, police departments, etc.

Mr. Sorey stated that he had an itemized list that he wanted to get into record of the items that will be placed on site to ensure that they don't compromise the floodplain permitting issues with Benton County. He added that the things that might be a problem in the floodplain will be forced out of that floodplain area in the event of heavy rains.

Mr. Gurel asked if the facilities would be there only if there was an event; Mr. Sorey stated that that was correct. Mr. Gurel stated that he had noticed that half of the stage is in the floodplain and half is not; he asked for verification that it would only be there for an event. Mr. Sorey stated that it is only there for a weekend or however long the event is scheduled; he said that he didn't think there would be any events lasting more than a week.

Mr. Borman stated that it was his understanding that there are no permanent structures; Mr. Sorey affirmed that there are no permanent structures. Mr. Gurel stated that he sees Osage Creek and asked if there was ever a time when waters flood. Mr. Sorey stated that the property owner, Mr. Smith, has said that he has never seen water up in that area of pasture. Mr. Sorey

added that stream does flood and it gets out of its banks, but it doesn't affect that property like the FEMA map is showing. Mr. Gurel asked for reassurance that if they had a crowd during an event that flood waters couldn't come up to where the crowd would be; Mr. Sorey stated that "if you have that type of event plus knowing the time of concentration for that type of channel you're going to know you have some flash flooding to deal with and you can evacuate the property before that would hit you." He added that the applicant's property across the road would be "high and dry" and would never be wet; he felt that there would be ample time to evacuate the property before anybody would be in danger. He emphasized that this is unstudied floodplain, so until a detailed study is done there are no base flood elevations for that property. He asked for affirmation from Ms. Bachert; Ms. Bachert replied (portions of Ms. Bachert's reply was unintelligible) A zone.

Mr. Borman stated that another stipulation for the project would concern the use of spotlights; per David Kampwerth's conditions, he underscored that the

- Spotlights could not be aimed into the wildlife refuge or Osage Creek. He said that this would also carry over to the permanent facility to the North.

Mr. Gurel commented that was for the benefit of the bats; Mr. Borman agreed. Mr. Borman stated that his understanding was Mr. Kampwerth was working with Mr. Smith regarding the bats. Mr. Sorey stated that actually Mr. Smith had had a lengthy meeting with Mr. Kampwerth and is amenable to all of the conditions; he added that Mr. Smith is willing to work with Mr. Kampwerth on the stage configuration on the final site plan.

Mr. Borman asked if they would see the configuration changes with the floodplain development permit; Mr. Sorey stated that the applicant did not have a chance to make changes due to the lack of a TAC review. He added that he did not know what to expect from the Board and he would propose that Staff review the final changes since this project involves only temporary structures. He pointed out that what was shown on the site plan would be less intrusive if the event scheduled was an arts and crafts event; he reiterated that the applicant is not permanently changing the land at all.

Mr. Borman stated that his only comment with regard to this is the issue of public water. Mr. Borman stated that he understood that bottled water would be brought in for the time being with regards to temporary facilities however given the time frame I think probably within a year you need to develop some sort of plans with the Health Department because eventually when you develop the amphitheater you're going to be a transient community water system. He added that there are minimal regulations that have to be abided. Mr. Sorey stated that he had already talked to the representatives and that is not a problem. Mr. Borman stated that he would stipulate that

- Plans must be submitted to the Department of Health regarding a water supply one year from today.
- 45-day minimum notification of fire department, police, sheriff department, board of health, and county planning office to obtain any necessary permit for any certain scheduled event.

Mr. Ward asked who the fire department was. Mr. Sorey stated that it was the Gallatin Fire Department. Mr. Sorey added that all of those entities had been talked to even after the permanent structure was dealt with and discussions have been already had with Siloam Springs as far as water but more than likely the time frame you're talking about we would look to a well. Mr. Borman stated that was fine because you would be a public water system, a transient system you would have to go through a review that would allow you enough time to get the reviews done. Mr. Knight asked if Logan Community had a fire department. Mr. Borman replied No, it is Gallatin.

Mr. Sorey stated that one thing that he didn't want to skim over was from an engineering standpoint this is of a temporary nature. He added that the things that he would be concerned with are the amount and location of our entry points because that really ends up being the issue how you handle some of your heavier truck traffic, how you handle the actual folks coming to take part hopefully keeping them a little bit separated, we've tried to do that and we've tried to do that also thinking of the permanent amphitheater location so that they jive well because we don't want to keep skipping around and have an entrance over there and an entrance over here for all these different events especially if we have to put down grass pave to support some of those loads. Mr. Sorey stated that they were looking at a concept plan but there has been a lot of thought taken with how that lays out and there will be similarities between different events. Mr. Borman said that he did not have an issue with how it is laid out on the property as long as it is

- Minimal impact on the property and points of entry.
- The facilities shown on the plans must be provided; such as first aide and port-a-potty.

He added that since this is a temporary facility it makes me no difference one way or another, it is not a permanent site, they will be there and then they will be gone. Mr. Sorey commented about bats (laughter). Mr. Sorey said that he was sorry and wished that Dave Kampwerth was here. Mr. Borman stated that the stipulation is that

- Once the use is over the facility is vacated.

Mr. Borman stated that the way it looks to him the entrance is a minimal impact right now with about 500 spaces for parking. He added that chances

are real good that you are going to have to roll that down so there will be some dirt work required eventually out there. Mr. Sorey commented that he thought the entry points are what's going to be required. Mr. Borman stated that he thought that it sat high enough up toward Logan Road that it would not have any adverse impact with run off going back toward Osage Creek.

Mr. Knight asked from the south of 412 over the county road I believe you've got a low water bridge and then you run into dirt road for about a half mile and then you're back on paved road; is that going to be an issue for the County. Mr. Sorey stated that they had met with the County at length over the permanent facility and there are minutes of those meetings and that was discussed at the board meeting and the approval of those issues ended up being resolved as far as access points. He added that as far as the permanent facility goes yes those have to be dealt with and of course with the temporary facility that we are talking about one of the components of that is to test the waters to make sure that we are not just dreaming here with a project that's not going to be dollar effective and also help raise and fund the dollars for this permanent facility. Mr. Sorey stated that this is a huge investment and we're trying to be cautious and smart in the market we've got. He added that they were talking earlier about the facebook page for this and there are already 1500 members for the facebook for something that doesn't even exist yet where you have other similar facilities in the state that don't have that have been around for 30 years.

Mr. Knight stated that he didn't know how the Board deals with this but the low water bridge that goes across Osage Creek if you get a lot of water that basically shuts down. Mr. Sorey agreed. Mr. Knight said that you could not get through at all. Mr. Sorey stated that a new bridge was under construction. He added that a lot of those that we talked about access all the way back out to the North and a lot of that work has already been done. Mr. Knight asked when the approval of the permanent facility took place. Mr. Sorey replied that it was in 2004. Mrs. Stewart stated that there was a conceptual approved in 2008.

Mr. Borman stated that they cannot proceed with permanent structures until they bring us a site plan back and address all the original stipulations. Mr. Sorey stated that they would have to come back and ask for another extension or come in with some type of plan before June of this year.

Mr. Sorey asked if the Board needed him to read the paragraph from the letter or did we already cover all those issues. Ms. Bachert stated that she thought that it would be good for the Board to hear it. Mr. Sorey stated that he would read it into the record and stated that the intent of this submittal is to gain planning approval to hold certain arts events as a prerequisite to the amphitheater being completed and draw attention to Northwest Arkansas site for the arts and various venues. As stated on the submitted plans there will be no permanent structures constructed on this site. Mr. Borman stated that

- The project will need to meet all storm water requirements.

Ms. Bachert agreed and stated that further the intent is to bring in

- Equipment will be of a temporary nature based on the venue that's being presented. Portable stages, sound equipment, electric generators, lighting, restrooms, trash containers, fencing, and concession vendors will be brought in to serve each event and immediately removed when the event has completed.
- The area will also be immediately cleaned to assure that all trash and debris has been taken from the site and disposed of appropriately.

Ms. Bachert added that the areas of concern regarding unstable soils for parking are not in the flood plain.

Mr. Borman stated that the only stipulation that he would add to this is

- The temporary use facility project will be granted for one year and subject to review.

Mr. Sorey asked that after that year then basically if everything is kosher and copasetic it will not be a yearly thing. He added that it would not be like a conditional use. Mr. Borman agreed.

Mr. Borman asked Mrs. Sidwell to state the stipulations. Mrs. Sidwell stated the following stipulations:

1. Mr. Smith has committed to (and will) provide additional security to ensure that during events no trespass or vandalism will occur with regards to Logan Cave National Wildlife Refuge.
2. Benton County Floodplain Administrator Ronette Bachert would be notified of any planned events along with all appropriate health and safety personnel, police departments, etc. A 45-day minimum notification of fire department, police, sheriff department, board of health, and county planning office to obtain any necessary permit for any certain scheduled event. In addition Mr. Smith will also notify USFWS within the same 45-day prior notice timeframe to address any additional concerns they may have regarding the event and Logan Cave NWR (#2 and 6 combined as they should go together).
3. No permanent structure will be placed in the floodplain.
4. Spotlights will not be aimed into the wildlife refuge or Osage Creek. This will also carry over to the permanent facility to the North.
5. Plans must be submitted to the Department of Health regarding a permanent public water supply one year from today.

6. Minimal impact on the property and points of entry.
7. The facilities shown on the plans must be provided; such as first aide and port-a-potty even though specific location may be varied within confines of submitted plan.
8. The project will need to meet all applicable storm water requirements.
9. Equipment will be of a temporary nature based on the venue that's being presented. Portable stages, sound equipment, electric generators, lighting, restrooms, trash containers, fencing, and concession vendors will be brought in to serve each event and immediately removed when the event has completed.
10. Once the temporary use is over the facility is vacated.
11. The area will also be immediately cleaned to assure that all trash and debris has been taken from the site and disposed of appropriately.
12. The temporary use facility project will be granted for one year dated from approval of the temporary facility and subject to review.

Mr. Ward made a motion to approve the project with the stated stipulations, Mr. Cole seconded the motion. Mr. Borman, Mr. Cole, Mr. Gurel, Mr. Kneebone, Mr. Knight and Mr. Ward voted in favor of the motion and the motion was passed.

6. Reports of Planning Board members

There were no reports from the Board.

7. Adjournment:

The meeting was adjourned at 7:56 pm